

HOUSE BILL 236

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Ben Lujan

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR INCREASED TAX CREDITS  
PURSUANT TO THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX  
CREDIT ACT; ADDING ELIGIBILITY REQUIREMENTS FOR THOSE TAX  
CREDITS; INCREASING ADMINISTRATIVE COSTS THAT MAY BE CLAIMED AS  
QUALIFIED EXPENDITURES FOR THE PURPOSE OF CLAIMING THE TAX  
CREDITS; PROVIDING FOR COORDINATION OF EFFORTS BETWEEN NATIONAL  
LABORATORIES PROVIDING SMALL BUSINESS ASSISTANCE PURSUANT TO  
THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX CREDIT ACT;  
PROVIDING REPORTING REQUIREMENTS FOR THOSE NATIONAL  
LABORATORIES; MAKING TECHNICAL CORRECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9E-1 NMSA 1978 (being Laws 2000 (2nd  
S.S.), Chapter 20, Section 1) is amended to read:

"7-9E-1. SHORT TITLE.--~~[This act]~~ Chapter 7, Article 9E

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1 NMSA 1978 may be cited as the "Laboratory Partnership with  
2 Small Business Tax Credit Act".

3 Section 2. Section 7-9E-3 NMSA 1978 (being Laws 2000 (2nd  
4 S.S.), Chapter 20, Section 3) is amended to read:

5 "7-9E-3. DEFINITIONS.--As used in the Laboratory  
6 Partnership with Small Business Tax Credit Act:

7 A. "contractor":

8 (1) means [~~an entity~~] a person that:

9 (a) has the capability to provide small  
10 business assistance; and

11 (b) may enter into a contract with a  
12 national laboratory to provide small business assistance; and  
13 [~~is~~

14 ~~(1) an individual, estate, trust, receiver,~~  
15 ~~cooperative association, club, corporation, company, firm,~~  
16 ~~partnership, limited liability company, limited liability~~  
17 ~~partnership, joint venture, syndicate or other entity,~~  
18 ~~including any]~~

19 (2) includes:

20 (a) a gas, water or electric utility  
21 owned or operated by a county, municipality or other political  
22 subdivision of the state; or

23 [~~(2) any~~] (b) a national, federal,  
24 state, Indian or other governmental unit or subdivision, or  
25 [~~any~~] an agency, department or instrumentality of any of the

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1 foregoing;

2 B. "department" means the taxation and revenue  
3 department, the secretary of taxation and revenue or ~~[any]~~ an  
4 employee of the department exercising authority lawfully  
5 delegated to that employee by the secretary;

6 C. "national laboratory" means a prime contractor  
7 designated as a national laboratory by act of congress that is  
8 operating a facility in New Mexico;

9 D. "qualified expenditure" means an expenditure by  
10 a national laboratory in providing small business assistance,  
11 limited to the following expenditures incurred in providing the  
12 assistance:

13 (1) employee salaries ~~[and]~~, wages, fringe  
14 benefits and employer payroll taxes;

15 (2) ~~[fringe benefits, employer payroll taxes~~  
16 ~~and other]~~ administrative costs related directly to the  
17 provision of small business assistance, the total of which is  
18 limited to forty-nine percent of employee salaries ~~[and]~~,  
19 wages, fringe benefits and employer payroll taxes;

20 (3) in-state travel expenses, including per  
21 diem and mileage at the internal revenue service standard  
22 rates; and

23 (4) supplies and services of contractors  
24 related to the provision of small business assistance;

25 E. "rural area" means ~~[any]~~ an area of the state

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1 ~~[other than]~~ outside of the exterior boundaries of a class A  
2 county that has a net taxable value for rate-setting purposes  
3 for any property tax year of more than seven billion dollars  
4 (\$7,000,000,000);

5 F. "small business" means a business in New Mexico  
6 that conforms to the definition of small business found in the  
7 federal Small Business Act [~~(Public Law 85-536), as amended~~];  
8 and

9 G. "small business assistance" means assistance  
10 rendered by a national laboratory related to the transfer of  
11 technology, including software [~~and~~], manufacturing, mining,  
12 oil and gas, environmental, agricultural, information and solar  
13 and other alternative energy source technologies. "Small  
14 business assistance" [~~also~~] includes nontechnical assistance  
15 related to expanding the New Mexico base of suppliers,  
16 including training and mentoring individual small businesses;  
17 assistance in developing business systems to meet audit,  
18 reporting and quality [~~assistance~~] assurance requirements; and  
19 other supplier development initiatives for individual small  
20 businesses."

21 Section 3. Section 7-9E-5 NMSA 1978 (being Laws 2000 (2nd  
22 S.S.), Chapter 20, Section 5) is amended to read:

23 "7-9E-5. ELIGIBILITY REQUIREMENTS.--A national laboratory  
24 is eligible for a tax credit in an amount equal to qualified  
25 expenditures if:

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1           A. the small business assistance is rendered to a  
2 small business located in New Mexico;

3           B. the small business assistance is completed;  
4 [~~and~~]

5           C. the small business certifies to the national  
6 laboratory that the small business assistance provided is not  
7 otherwise available to the small business at a reasonable cost  
8 through private industry;

9           D. the national laboratory provides written notice  
10 to each small business to which it is providing small business  
11 assistance of the option that the small business has to obtain  
12 ownership of or license to tangible or intangible property  
13 developed from the small business assistance;

14           E. the national laboratory requires small  
15 businesses to which it is providing small business assistance  
16 to acknowledge only after the small business assistance is  
17 completed that the small business assistance has been rendered;  
18 and

19           F. the national laboratory provides forms for small  
20 business requests and for completion of small business  
21 assistance that are in accordance with the Laboratory  
22 Partnership with Small Business Tax Credit Act and other  
23 applicable state and federal laws."

24           Section 4. Section 7-9E-7 NMSA 1978 (being Laws 2000 (2nd  
25 S.S.), Chapter 20, Section 7) is amended to read:

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1           "7-9E-7. TAX CREDITS--AMOUNTS.--~~Each~~ A tax credit  
2 provided ~~[for]~~ pursuant to the Laboratory Partnership with  
3 Small Business Tax Credit Act shall be in an amount equal to  
4 the qualified expenditure incurred by the national laboratory  
5 to provide small business assistance to a specific small  
6 business, not to exceed ~~[five thousand dollars (\$5,000)]~~ ten  
7 thousand dollars (\$10,000) for each small business located  
8 outside of a rural area for which small business assistance is  
9 rendered in a calendar year or ~~[ten thousand dollars (\$10,000)]~~  
10 twenty thousand dollars (\$20,000) if the small business  
11 assistance was provided to a small business located in a rural  
12 area."

13           Section 5. Section 7-9E-8 NMSA 1978 (being Laws 2000 (2nd  
14 S.S.), Chapter 20, Section 8) is amended to read:

15           "7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--

16           A. A national laboratory eligible for the tax  
17 credit pursuant to the Laboratory Partnership with Small  
18 Business Tax Credit Act may claim the amount of each tax credit  
19 by crediting that amount against gross receipts taxes otherwise  
20 due pursuant to the Gross Receipts and Compensating Tax Act.  
21 The tax credit shall be taken on each monthly gross receipts  
22 tax return filed by the laboratory against gross receipts taxes  
23 due the state and shall not impact any local government tax  
24 distribution. In no event shall the tax credits taken by an  
25 individual national laboratory exceed ~~[one million eight~~

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1 ~~hundred thousand dollars (\$1,800,000)]~~ two million four hundred  
2 thousand dollars (\$2,400,000) in a given calendar year.

3 B. Tax credits claimed pursuant to the Laboratory  
4 Partnership with Small Business Tax Credit Act by all national  
5 laboratories in the aggregate for qualified expenditures for a  
6 specific small business not located in a rural area shall not  
7 exceed ten thousand dollars (\$10,000).

8 C. Tax credits claimed pursuant to the Laboratory  
9 Partnership with Small Business Tax Credit Act by all national  
10 laboratories in the aggregate for qualified expenditures for a  
11 specific small business located in a rural area shall not  
12 exceed twenty thousand dollars (\$20,000)."

13 Section 6. A new section of the Laboratory Partnership  
14 with Small Business Tax Credit Act is enacted to read:

15 "[NEW MATERIAL] COORDINATION BETWEEN NATIONAL  
16 LABORATORIES.--If more than one national laboratory is eligible  
17 for a tax credit pursuant to the Laboratory Partnership with  
18 Small Business Tax Credit Act, a national laboratory shall not  
19 file a tax credit claim pursuant to the Laboratory Partnership  
20 with Small Business Tax Credit Act until:

21 A. coordination is developed between the national  
22 laboratories providing small business assistance pursuant to  
23 the Laboratory Partnership with Small Business Tax Credit Act  
24 that generates a joint small business assistance operational  
25 plan and a plan to ensure that the small business assistance

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1 provided by a national laboratory suits the small business's  
2 needs and challenges; and

3 B. a written copy of each plan formed pursuant to  
4 this section is provided to the department."

5 Section 7. A new section of the Laboratory Partnership  
6 with Small Business Tax Credit Act is enacted to read:

7 "[NEW MATERIAL] REPORTING.--

8 A. By October 15 of each year, a national  
9 laboratory that has claimed a tax credit pursuant to the  
10 Laboratory Partnership with Small Business Tax Credit Act for  
11 the previous calendar year shall submit an annual report in  
12 writing to the department, the economic development department  
13 and an appropriate legislative interim committee.

14 B. If more than one national laboratory claims a  
15 tax credit pursuant to the Laboratory Partnership with Small  
16 Business Tax Credit Act for the previous calendar year, those  
17 laboratories shall jointly submit an annual report to the  
18 department, the economic development department and an  
19 appropriate legislative interim committee no later than October  
20 15 following the calendar year in which the small business  
21 assistance was provided.

22 C. An annual report shall summarize activities  
23 related to and the results of the small business assistance  
24 programs that were provided by one or more national  
25 laboratories and shall include:

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1 (1) a summary of the program results and the  
2 number of small businesses assisted in each county;

3 (2) a description of the projects involving  
4 multiple small businesses;

5 (3) results of surveys of small businesses to  
6 which small business assistance is provided;

7 (4) the total amount of the tax credits  
8 claimed pursuant to the Laboratory Partnership with Small  
9 Business Tax Credit Act for the year on which the report is  
10 based; and

11 (5) an economic impact study of jobs created,  
12 jobs retained, cost savings and increased sales generated by  
13 small businesses for which small business assistance is  
14 provided.

15 D. At any time after receipt of an annual report  
16 required pursuant to this section from one or more national  
17 laboratories eligible for tax credits authorized pursuant to  
18 the Laboratory Partnership with Small Business Tax Credit Act,  
19 the department or the economic development department may  
20 provide written instructions to a national laboratory  
21 identifying future improvements in the laboratory's small  
22 business assistance program for which it receives that tax  
23 credit."

24 Section 8. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2007.

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